



## Madison's Central Business Improvement District (BID)

### MEMO

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Date: June 8, 2011

To: Alcohol License Review Committee (ALRC), Board of Public Health, Downtown Coordinating Committee, Economic Development Committee, Public Safety Review Committee, and Common Council.

From: Mary Carbine  
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Re: BID BOARD POSITION, 22548 Alcohol License Density Ordinance; proposed amendment of Sec. 38.05(9)(o) of the Madison General Ordinances to create entertainment venues, extend time limits for applying for new licenses in closed premises, modify annual reporting requirements, and extend the sunset provisions

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### About Madison's Central Business Improvement District (BID)

Madison's Central Business Improvement District (BID) is a special assessment district that encompasses the greater State Street and Capitol Square areas. The District includes some 220 commercial properties and 370 retail, restaurant, entertainment and service businesses, many of which are locally-owned and/or small businesses. The aim of the BID is to increase the vitality and health of the district and promote business within it. Our constituents are commercial property and retail business owners in the district, and their customers, both residents and visitors. The BID Board includes property owners, both large and small, and business owners: retail, restaurant, and hospitality.

The BID supports the downtown retail, restaurant and hospitality district through marketing (Downtown Madison Map & Guide, visitdowntownmadison.com website, advertising and events such as the Downtown Holiday open House) and welcoming environment programs (Downtown Ambassadors, floral programs, holiday lights).

### BID Board position on ALDO and proposed amendments

While the BID Board supports several goals of the Alcohol License Density Plan (to decrease the incidence of alcohol-related problems in the central downtown, and to foster a business mix that contributes to economic vitality and quality of life in the central downtown), the BID Board disagrees that ALDO has been effective in achieving these goals. The BID Board opposed the ALDO in 2007, continues to oppose the ordinance in its entirety including the proposed amendments, and advocates that the ALDO be allowed to sunset.

The BID Board maintains that:

- ALDO has not been shown to reduce alcohol-related crime and disorder or improve downtown safety.
- Other factors are more important in reduced alcohol-related crime and disorder:
  - Proactive policing;
  - Dealing with problem establishments;
  - An overall trend of reduced crime.
- The focus on reducing licenses takes attention away from core problems:
  - Problem drinking that produces disorderly and violent behavior;
  - Problem drinking environments (house parties, major events, problem licensed establishments), which generate an inordinate amount of disorderly and violent behaviors;
  - Significant community and police costs for a small group of habitually intoxicated, chronic nuisance offenders.
- The premise that ALDO provides opportunity for non-alcohol businesses (e.g., retail) is unfounded. ALDO has negative unintended consequences for the downtown business mix. It discourages entertainment businesses from considering downtown, discourages retention and expansion of well-run (i.e., safer) licensed establishments, and promotes more restaurants when downtown is already somewhat saturated with restaurants.
- The BID Board recommends the ALDO be allowed to sunset, so that the city and partner organizations can focus on policies and efforts which:
  - Target the problem behaviors and problem drinking;
  - Promote safe and well-run licensed establishments;
  - Incentivize a positive downtown business mix, including more entertainment options and retail.

These efforts could include previous BID suggestions such as encouraging business participation in the Responsible Retailing Program; policies that focus on problem behaviors associated with problem drinking (e.g., penalty enhancer for disorderly conduct while intoxicated); requiring all (not just some) license applications to include a security plan; providing license applicants with a clear summary of alcohol ordinances and regulations (not currently done); and utilizing existing enforcement options for problem establishments (ALERT meetings, Formal complaints, Formal Expression of Concern, Conditions on License at Time or Renewal, Suspension/Revocation Hearing, Disorderly House Complaint, Chief's Security Plan, or Public Nuisance-Circuit Court).

## Proposed “Entertainment Venue” amendments to ALDO

Many members of the BID Board and downtown real estate professionals spent many hours contributing to the work of the ALRC subcommittee and at the ALRC meetings regarding the proposed amendments to ALDO to allow entertainment venues to diversify the offerings downtown, a regional entertainment destination. BID supports encouraging entertainment venues that are not focused simply on “vertical drinking” but rather offer a variety of activities for customers to enjoy downtown.

Unfortunately, the resulting proposed amendments ((4 d) Entertainment Venue) are so restrictive and disconnected from the realities of how businesses operate that the amendments provide no real opportunities for entertainment venues.

Examples:

- Alcohol Revenue percentage of 65%: Without alcohol revenue of at least 75% for entertainment businesses, the entertainment category will be meaningless because few or no businesses will apply. Businesses that can get 100% alcohol revenue in other markets (even if they operate at 65% or 75%) won’t look at investing in downtown Madison with this restriction. They will want the flexibility to go up to at least 75%. The percentage restriction fails to appreciate that revenue generated by alcohol often underwrites entertainment offerings. The focus on alcohol revenue percentage takes policy-maker attention away from what really matters in predicting whether the business will cause problems or not: how the business will be run.
- Business Plan requirement: The requirement for a business plan at the “level of detail normally required by a lending institution” but “not including confidential or extraneous business information” is contradictory. If the business plan is of the detail required by a lending institution, it will include confidential financial information. Many companies will be unwilling to submit such a business plan – they consider it proprietary, they have proven track records elsewhere, and they have plenty of other markets they can go into without this requirement. Why is detailed, confidential financial information necessary for the ALRC to consider the safety and operations of the establishment?”
- Seating Capacity limitation: Limiting the licensed capacity of the establishment to the number of chairs, bars stools or seats will effectively shut out live music venues where people want to dance or watch as a crowd, or businesses like Dave & Busters or table tennis where people are up, moving around, and engaged in games and activities.
- Hours of Operation: Restricting opening and closing times will discourage good businesses that can utilize all dayparts. What if a business wants to serve lunch, then offer entertainment in evening? The alcohol-related disorder ALDO is targeting is a late night issue, primarily after 11pm. Why restrict daytime hours of businesses? If policy-makers want to encourage downtown retail, be aware that forcing some businesses to stay closed during the day will hurt downtown retail by creating dead spots without the daytime foot traffic essential to retail success.

## **Background to BID positions**

After four years of the ALDO, it is difficult to analyze its impacts because the ALDO annual reviews have not included relevant research or data. However, information from various sources suggests the ALDO's impact on alcohol-related crime and disorder is negligible when compared to other factors.

While ALDO proponents claim that a reduction in downtown licenses has resulted in a reduction in alcohol-related crime and disorder, the density of licenses in the ALDO area actually increased from 2007 to 2011 while crime dropped.

The city did not track the number and types of licenses in the ALDO area between 2007 and 2010. Lists recently provided by the Alcohol Policy Coordinator indicate there was at least a 9% increase in the total number of licenses between 2007 and 2011, with only five fewer establishments granted "tavern" licenses (3% of 158 licenses total). The reduction in tavern licenses in the ALDO area is negligible compared to the overall licensed density.

The reduction in crime during the same period has not been shown to result from ALDO. In 2009 (the most recent year for which an ALDO annual review is available), overall city crime was down 4.4% (Uniform Crime Reporting), and overall violent crime in the Midwest decreased 4.6%, the third consecutive annual decrease (US Dept. of Justice). Also, during the ALDO timeframe (2007 onward), there has also been a shift towards proactive policing downtown. According to UW Professor Dr. Aaron Brower (presentation to ALRC Subcommittee, June 2, 2010), alcohol-related crimes in the general downtown area decreased between 2003 and 2008. He identified the biggest factor as a change in enforcement policy towards early intervention, i.e., proactive police enforcement earlier in the evening for lesser offenses, which reduces the number of later serious offenses. In 2007, the same year that the ALDO was instituted, the Central District Police implemented the Downtown Safety Initiative, with additional policing on weekend nights.

Data and maps of alcohol-related disorder have been presented by police many times at meetings about ALDO or the Downtown Safety Initiative. A recurring pattern is the concentration of alcohol-related disorder around major events (not impacted by ALDO). According to the 2010 Downtown Safety Initiative (DSI) Report, 33% of total dates scheduled for extra policing were for Halloween, Mifflin Street block party, UW graduation, and UW home football games, with 25% associated with UW football games.

Another recurring pattern is "hot spots" of alcohol-related disorder around problem establishments, a number of which were subject to disciplinary action and then closed (e.g., the previous Club Majestic, CueNique, Rams Head, Crave, Madison Avenue). While the ALDO makes a distinction between restaurant and tavern operations (based solely on revenue percentage), available records of disciplinary actions show that both restaurants (e.g., Quintons, Crave, Azzalino's, Africana, Frida's) and taverns can cause problems. The ALDO does not have any impact on how an establishment is run, which is connected directly to whether there is disorder or not, and which can be impacted directly by the city through the licensing process and disciplinary measures.

Analysis done by Madison Police, the UW Law School and United Way in 2008 documented that a small number of chronic nuisance offenders, primarily in the

downtown area, were responsible for a high number of police calls, trips to detox and jail, costing the community an estimated \$4,000 a month and \$3 million a year in public safety and health care systems costs. These chronic nuisance offenders were primarily indigent and challenged by mental illness and alcohol issues, and primarily consume packaged liquor during the day downtown (rather than drink in more expensive bars at night). The resources spent on repeated police calls, trips to detox and jail would be much better put towards more effective interventions and programs for the chronic offenders. ALDO's focus on taverns does not address these issues, among the most costly to the community, and of most concern to downtown businesses and customers.

ALDO also has negative unintended consequences for the downtown business mix. Per the city's Strategic Economic Development Plan, "Conventions & Visitors" is a "basic" sector that brings outside dollars into Madison and should be developed. ALDO limits entertainment options in our downtown, a visitor and convention destination. ALDO also promotes restaurants over other entertainment options when downtown is already somewhat saturated with restaurants (as per the 2007 Downtown Madison Market Analysis Study). Because ALDO prohibits business expansion, it discourages retention and expansion of well-run (i.e., safer) licensed establishments that are a known quantity. ALDO also discourages new, innovative, entertainment businesses from considering downtown Madison because they can easily invest and locate in areas that do not have similar restrictions.

While the ALDO preamble states that the ordinance provides opportunities for businesses that either sell alcohol incidental to their principal business or do not sell alcohol, this premise not based in market reality. ALDO has not "provided opportunity" for non-alcohol businesses (e.g., retail). ALDO was implemented in Sep. 2007. From Feb. 2007 to March 2011, BID has tracked the business mix in the greater State Street and Capitol Square area:

- 6.5 % decrease in retail
- 5% increase in food & drink (restaurants and taverns)
- 1.5% increase in service businesses

Of the 5 fewer taverns since implementation of ALDO, 4 were replaced by licensed establishments (restaurants), and one is vacant. Properties that were taverns or restaurants cannot be converted to retail without significant investment, highly unlikely in the current economy.

Downtown Madison retail is challenged by forces unrelated to ALDO, such as the overall economy and global market forces (i.e., online shopping). Demonstrated policies and actions shown to improve retail and business mix in downtowns include:

- Short term: Prioritizing the downtown customer experience:
  - Convenient access: vehicle, multi-modal
  - Improved wayfinding signage to and through downtown;
  - Convenient, good-value public parking focused on good customer experience;
  - Clean, well-maintained and attractive public spaces;

- Medium term: Tenant Improvement or other incentive funding, e.g., along the lines of the package of grants and forgivable loans recently approved in Milwaukee to provide incentives for retailers to locate downtown.
- Long term: Policies that foster increased residential and workforce density in downtown, boosting the number of households and workers, and downtown customer base.